

### **REMARKS/ARGUMENTS**

Claims 4 and 6 are hereby canceled without prejudice. As a result, claims 1-3, 5 and 7-39 are currently pending in the application. This amendment is being filed with a request for a three month extension to extend the due date from January 1, 2008 to April 1, 2008. A credit card authorization form is enclosed to pay for the fees. Claims 1-39 were rejected in the Office Action mailed October 1, 2007 (hereinafter referred to as "Office Action"). In view of the following remarks and amendments, applicant respectfully requests a timely Notice of Allowance be issued in this case.

#### ***Claim Rejections under 35 U.S.C. § 102***

Claims 1-3, 8-9, 17, 25, 34 and 39 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,347,452 to Bay, Jr. (hereinafter referred to as "Bay"). For anticipation, a single reference *must identically disclose* every element of the claimed invention. *Corning Glass Works v. Sumitomo Electric*, 9 USPQ 2d 1962, 1965 (Fed. Cir. 1989). A reference that excludes a claimed element, no matter how insubstantial or obvious, is enough to negate anticipation. *Connell v. Sears, Roebuck & Co.*, 220 USPQ 193, 198 (Fed. Cir. 1983). Applicant respectfully submits that claims 1-3, 5 and 7-39 are not anticipated by Bay and are, therefore, allowable under 35 U.S.C. § 102(b) for the reasons stated below.

#### ***Claims 1, 25 and 39***

The Office Action indicated that "Bay does not disclose that the visual indicator is a first color" (page 5, line 13) and "Bay does not disclose that the visual indicator is a second color" (page 6, lines 10-11). As a result, Bay does not identically disclose a visual favorable/unfavorable trade indicator that can be a first color or a second color as recited in claims 1, 25 and 39, as amended. Accordingly, applicant respectfully submits that claims 1, 25 and 39, as amended, are not anticipated by Bay and are, therefore, allowable under 35 U.S.C. § 102(b). Applicant respectfully requests that the rejection of claims 1, 25 and 39 be withdrawn.

#### ***Claims 2-3, 8-9, 17 and 34***

Applicant respectfully submits that claims 2-3, 8-9, 17 and 34 depend from claims 1 and 25 which are allowable for the reasons stated above, and further distinguish over the cited references. Claims 2-3, 8-9, 17 and 34 are, therefore, allowable under 35 U.S.C. § 102(b). Accordingly, applicant respectfully requests that any rejection of claims 2-3, 8-9, 17 and 34 be withdrawn.

#### ***Claim Rejections under 35 U.S.C. § 103***

Claims 4-7 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bay in view of U.S. Patent Application Publication No. 2002/0055899 to Williams

(hereinafter referred to as “Williams”). In addition, claims 10-11, 13-15, 18-20, 22-23, 27-31 and 35-37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bay in view of U.S. Patent Application Publication No. 2002/00156722 to Greenwood (hereinafter referred to as “Greenwood”). Claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Bay in view of U.S. Patent No. 6,792,399 to Phillips et al. (hereinafter referred to as “Phillips”). Claims 16 and 32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bay in view of U.S. Patent No. 7,171,384 to Fitzpatrick (hereinafter referred to as “Fitzpatrick”). Claims 21, 24 and 38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bay in view of Greenwood and further in view of U.S. Patent Application Publication No. 2002/018434 to Olsen et al. (hereinafter referred to as “Olsen”). Claim 33 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Bay in view of Olsen. Applicant respectfully submits claims 1-3, 5 and 7-39, as amended, are not obvious over the cited references and are, therefore, allowable under 35 U.S.C. § 103(a) for the reasons stated below

#### ***Claims 1, 25 and 39***

Applicant respectfully submits that Bay and the other cited references, either alone or in combination, do not disclose, teach or suggest the following elements as recited in claims 1, 25 and 39 as amended:

obtaining . . . at least (a) *a first set of market data . . . based on a series of consecutive first time intervals* within the time period comprising a first opening value and a first closing value for each consecutive first time interval, (b) *a second set of market data . . . based on a series of consecutive second time intervals* within the time period comprising a second opening value and a second closing value for each consecutive second time interval, and (c) *the first time interval is not equal to the second time interval*;

*calculating a first opening value trend for the first time intervals* using a market trend indicator and the first opening values for the underlying investment, and *a second opening value trend for the second time intervals* using the market trend indicator and the second opening values for the underlying investment;

*calculating a first closing value trend for the first time intervals* using the market trend indicator and the first closing values for the underlying investment, and *a second closing value trend for the second time intervals* using the market trend indicator and the second closing values for the underlying investment;

*displaying a first visual favorable/unfavorable trade indicator for the first time intervals based on a comparison of the first opening value*

*trend to the first closing value trend* for the underlying investment, wherein the first visual favorable/unfavorable trade indicator is *a first color whenever the first closing value trend is greater than the first opening value trend* and the first visual favorable/unfavorable trade indicator is *a second color whenever the first closing value trend is lower than the first opening value trend*; and

*displaying a second visual favorable/unfavorable trade indicator for the second time intervals based on a comparison of the second opening value trend to the second closing value trend* for the underlying investment, wherein the second visual favorable/unfavorable trade indicator is *the first color whenever the second closing value trend is greater than the second opening value trend* and the second visual favorable/unfavorable trade indicator is *the second color whenever the second closing value trend is lower than the second opening value trend*.

Bay merely discloses “displaying current trade volume against historical trade volume” (col. 1, lines 41-43; col. 2, lines 7-10; col. 3, line 24-27) and “forecasting trade volume in a selected time interval” (col. 1, lines 43-46; col. 2, lines 15-18; col. 3, lines 52-54). As shown in Figure 1A, Bay displays four separate bars indicating the various historical and projected trading volumes (Figures 1 (reference 15); Figure 1A; col. 3, lines 54-65). These bars are not a comparison of the opening value trend to the closing value trend for the investment. Although, Bay discloses the use of opening and closing price values to display well-known candlestick markers (Figure 2 (reference 26); col. 4, lines 28-32), this information is not used to calculate the various historical and projected trading volumes (col. 3, lines 54-65). Moreover these bars are not a visual favorable/unfavorable trade indicator based on such a comparison. Furthermore, these bars only represent a series of consecutive bars for a single time interval (Figure 1 and col. 3, lines 1-6 (“a thirty minute time interval”); Figure 2 (time interval is a day)). As a result, Bay does not disclose, teach or suggest obtaining, calculating opening and closing value trends, and simultaneously displaying visual favorable/unfavorable trade indicators based on the calculated value trends for two different time intervals over the same time period. Accordingly, applicant respectfully submits that Bay does not disclose, teach or suggest the elements recited in claims 1, 25 and 39, as amended, and that the other cited references do not cure the deficiencies of Bay.

The Office Action indicated that Williams (paragraph 65) discloses “the visual indicator is a first color whenever the closing value trend for the time interval is greater than the opening value trend” (page 5, lines 14-16) and “the visual indicator is a second color whenever the closing value trend for the time interval is lower than the opening value trend” (page 6, lines 12-14). Applicant respectfully submits that Williams discloses a system that displays “financial information pertaining to stock market trading activity” (Abstract, lines 1-3) and allows a user to discern the trading positions of the auction participants via “changes in color of the tabs designating those auction participants”

(Abstract, lines 14-17). The system enables “individuals to more easily discern trends in the activity of those stocks” (Abstract, lines 20-22). “Each tab further includes a visual indication which is illuminated whenever a user defined event occurs relative to that stock” (paragraph 12, lines 1-3). “Various . . . regions also make use of colors, and more particularly changes in color, to quickly indicate to the user significant activity occurring relative to a particular stock” (paragraph 26, lines 1-4). The following activities are disclosed: “stock going outside of its 52 week moving average” (paragraph 43, lines 4-5), “the NASDAQ will be closing within ten minutes” (paragraph 45, lines 8-12), movements away from or toward an inside market line or the information becomes stale (paragraph 61, line 6-paragraph 62, line 6), “auction participant refreshes their ask” (paragraph 63, lines 1-2), “number of times the auction participant has been at inside market that day” (paragraph 63, lines 7-9), auction participant switches sides (paragraph 63, lines 13-15), “auction participant has changed its bid or ask price” (paragraph 64, lines 5-6), and the user can specify the colors used for the foregoing indicators that signal important activity of the auction participants (paragraph 65, lines 14-18).

Although, Williams presents information “in a manner which also makes important trends, which are important in making a trading decision, quickly discernable by even non-professionals” (paragraph 85, lines 7-11), the colored tabs/regions of Williams do not disclose, teach or suggest displaying a first visual favorable/unfavorable trade indicator for the first time intervals and a second visual favorable/unfavorable trade indicator for the second time intervals. In addition, Williams does not disclose, teach or suggest visual favorable/unfavorable indicators that are based on a comparison of a closing value trend to an opening value trend. In addition, applicant respectfully submits that Williams does not cure the other deficiencies of Bay as previously described. Accordingly, applicant respectfully submits that Williams, either alone or in combination with the other cited references, does not disclose, teach or suggest the elements recited in claims 1, 25 and 39, as amended, and.

As a result, applicant respectfully submits that the cited references do not disclose, teach or suggest all the elements recited in claims 1, 25 and 39 as amended. Accordingly, applicant respectfully submits that claims 1, 25 and 39 are not obvious or the cited references and are, therefore, allowable under 35 U.S.C. § 103(a). Applicant respectfully requests that the rejection of claims 1, 25 and 39 be withdrawn.

#### ***Claims 2-3, 5, 7-24 and 26-38***

Applicant respectfully submits that claims 2-3, 5, 7-24 and 26-38 depend from claims 1, 25 and 39 which are allowable for the reasons stated above, and further distinguish over the cited references. In addition, applicant respectfully submits that the cited references do not disclose, teach or suggest repeating the claimed steps for different time intervals” as recited in claims 20-22. Claims 2-3, 5, 7-24 and 26-38 are, therefore, allowable under 35 U.S.C. § 103(a). Accordingly, Applicant respectfully requests that any rejection of claims 2-3, 5, 7-24 and 26-38 be withdrawn.

***Conclusion***

For the reasons set forth above, applicant respectfully requests reconsideration by the examiner and withdrawal of the rejections. Applicant submits that claims 1-3, 5 and 7-39 are fully patentable. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If the examiner has any questions or comments, or if further clarification is required, it is requested that the examiner contact the undersigned at the telephone number listed below.

Date: April 1, 2008

Respectfully submitted,

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